IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.
WRIT PETITION NO. 2723 OF 2004

R.J. Elecgical ... Petitioner

Vs.

Everest Building Products ... Respondents

Ms. Shobhana Gopal for Petitioner.

Mr. R.S. Pai i/by Sanjay Udeshi & Co. for Respondent.

CORAM : F.I. REBELLO,J.
DATED : NOVEMBER 29, 2004

P.C.

1. By the present petition, petitioner has impugned order dated 28.11.2003 passed in Complaint (ULP) No. 894 of 1995 whereby the complaint alleging that the deceased husband of the complainant had been unlawfully retired before he completed age of superannuation namely 60 years has been rejected.

2. The deceased husband of the Petitioner herein joined the above company some time in the year 1957. At that time it appears that in the record of the company, the date of birth was recorded as 1.5.1932. The services of the deceased husband of the complainant came to be terminated on 11.3.1985. Reference was made, which was dismissed by order dated 16.7.1994. Some time on 4.3.1992 a letter was addressed by the deceased to the company setting out that the date of birth had wrongly been registered as 1932. He produced along with his application a copy of his marriage certificate

which shows that his date of birth is 13.6.1937. It is therefore, contended that the company ought not to have proceeded on the basis that the deceased husband of the complainant was born in 1932 but ought to have accepted the marriage certificate where documentary evidence in the form of the marriage certificate evidencing that his date of birth is 13.6.1937 was available.

3. The learned Industrial Court has considered the above contentions. The Court held that it was the duty of the deceased husband of the complainant to correctly disclose his correct date of birth at the time of joining of the service. At that time he had given his date of birth. Considering the catena of judgements on the subject, it will not be possible to interfere with the application for correction of date of birth just prior to retirement. The Apex Court has disapproved the practice of employees seeking the date of birth be altered at the time or retirement. Considering the above, to my mind and as even otherwise, as the marriage certificate does not give any legal right to alter the date of birth as 13.6.1937 and not 1.5.1932 in the records of the company, no case made out for interference in the exercise of extra ordinary jurisdiction. Hence, petition rejected.

(F.I. REBELLO,J.)